

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ALI QASEM SALEH ASAAD,	)	Case No.: 10-CV-05537-LHK
	)	
Petitioner,	)	
	)	
v.	)	ORDER TO SHOW CAUSE
	)	
ERIC HOLDER, JANET NAPOLITANO,	)	
TIMOTHY AITKEN,	)	
	)	
Respondents.	)	

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Petitioner Asaad, a citizen of Yemen, seeks a writ of habeas corpus under 28 U.S.C. § 2241 restraining Immigration and Customs Enforcement (ICE) from deporting him pending a ruling on his motion to reopen deportation proceedings that is currently before the Board of Immigration Appeals (BIA). Petitioner moves on the ground that deporting him while his appeal is pending would violate (1) INA § 240(b)(4)(B), 8 U.S.C. § 1229a(b)(4)(B) (requiring that an alien in removal proceedings be given a reasonable opportunity to prove his case); (2) 8 C.F.R. § 1240.1(c) (same); (3) Procedural Due Process under the Fifth Amendment to the United States Constitution; and (4) the Convention Against Torture.

On May 31, 2011, the Court issued an Order to Show Cause why Petitioner's request should not be granted. The Order stated that Respondents could either file an answer or a motion to dismiss within twenty days of the Order, and that Petitioner must respond to any motion to

1 dismiss within 15 days. On June 15, 2011, Respondents filed a motion to dismiss. Based on the  
2 June 15 filing date, Petitioner's response was due on June 30, 2011, but no response was filed.

3 The Court hereby orders Petitioner to show cause why this case should not be dismissed for  
4 failure to prosecute. This does not constitute leave to file an untimely opposition to the motion to  
5 dismiss. Petitioner's response is due **7 days from the date of this Order**. If Petitioner fails to  
6 respond, this case will be dismissed without prejudice for failure to prosecute.

7 **IT IS SO ORDERED.**

8 Dated: July 18, 2011

  
LUCY H. KOH  
United States District Judge